



**BOARD OF APPEALS**

16 Jan Sebastian Drive, Sandwich, MA 02563  
Phone: 508 833 8001  
Fax: 508 833 8006  
E-mail: [planning@townofsandwich.net](mailto:planning@townofsandwich.net)

**FINAL COPY**

**December 8, 2015  
Minutes**

TOWN CLERK  
TOWN OF SANDWICH

JAN 13 2016

10 H 25 M 4 ML  
RECEIVED & RECORDED

7:00pm  
Upper Meeting Room  
270 Quaker Meetinghouse Road

**Present:** James Killion, Chair, Robert Jensen, Vice Chair, Christopher Neeven, Erik Van Buskirk, Harold Mitchell, and David Schrader

**Also Present:** Blair Haney, Director, Josh Peters, Asst. Town Planner, Paul Spiro, Building Inspector, and Sam Jensen, Asst. Town Engineer

**Approval of Minutes**

Mr. Jensen moved to accept the minutes of the meeting held November 10, 2015 with a correction to the deliberation for 16 Putting Green Circle - "variance" in place of "special permit". Mr. Neeven seconded. The vote was unanimous.

**Extension of Time to Act**

**68 & 82 Roos Road**

**Karl/Walter**

Mr. Haney told the Board that, in the opinion of Town Counsel, the permit is frozen until the litigation is settled. Ms. Walter indicated that the case was disposed of at the appellate level. The Special Permit litigation has been settled; the rest of the litigation has not been settled.

Mr. Killion suggested that a letter could be drafted stating that the permits were still in litigation and therefore frozen. The Board is concerned because the TOS zoning bylaws allow for one extension of time to act, and one has already been granted. After further discussion, Mr. Spiro suggested that the Karl's attorney submit his opinion to the Planning and Development office. Planning and Development will contact Town Counsel with this information with the intent to find a resolution. The Board agreed.

**Variance #15-12**

**357 Cotuit Road**

**Tsakalos Realty Trust**

Mr. Killion read the Public Hearing notice into the record. He read the following comment letters into the record:

- Blair Haney, Director, Planning & Development, letter dated December 7, 2015
- Sam Jensen, P.E., Asst. Town Engineer, letter dated December 4, 2015

Attorney Christopher Kirrane, Thomas Tsakalos, and Anthony Tsakalos were present. Atty. Kirrane reviewed the variance request for the Board. Currently the property has 134' of frontage; the zoning bylaw requires 150'. He made the following points in his presentation:

- The owner can develop the land as a matter of right
- Proposed uses are by-right
- Traffic study is unnecessary as this only a frontage issue
- 50 parking spaces are more than currently on the property
- Property can be accessed from Heritage Plaza
- Plan presented is concept only
- There is a 20' easement that is not frontage
- If tenant use is not by-right, then owner will come back before the Board
- Lot was created by ANR in 1984

Mr. Killion asked how long Mr. Tsakalos has owned the property and how was it acquired without the proper frontage. Mr. Tsakalos bought the property in 1984. That it does not have proper frontage causes a financial hardship for the owner. Mr. Kirrane said that this was a good community project.

Mr. Killion asked Atty. Kirrane to speak to the other two requirements that need to be satisfied to grant a variance. Atty. Kirrane replied that there is no detriment to the neighborhood and it does not derogate from the intention of the bylaw.

Mr. Jensen asked if the plan could be redrawn to Cotuit Road. Mr. Spiro noted that if the variance is granted it would effectively take away parking spaces already granted. The lot behind the eye care center could handle expanded parking if necessary.

Mr. Killion opened the meeting for public comment. There was none.

Mr. Jensen moved that the public hearing for Variance #15-12 be closed. Mr. Neeven seconded. The vote was unanimous.

### **Board Discussion**

#### **Planning Board Comment**

#### **Atkins Road Cluster Subdivision**

After a short discussion, there was no Board comment for the Planning Board.

### **Affordable Housing**

Mr. VanBuskirk brought the loss of affordable housing due to foreclosure to the attention of the Board. He told the Board that Atty. Witten has had some success in Wareham dealing with this issue. Town Counsel thought that there were extenuating circumstances in Wareham that do not apply to Sandwich. Mr. Killion will speak to the local state representative about this. Mr. VanBuskirk feels that the banks should be held accountable – most towns are facing the same issue.

**Deliberation**

**Variance #15-12**

**357 Cotuit Road**

The Board reviewed and discussed 357 Cotuit Road, Variance #15-12. The Board voted to deny the Variance. The decision, findings, and conditions are on file in the Planning and Development office.

Mr. Neeven moved to adjourn the meeting. Mr. Mitchell seconded. The vote was unanimous. The meeting adjourned at 8:12pm.

Respectfully submitted,

Marilyn K. Bassett